

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	CR. NO. 09-156
	)	
vs.	)	
	)	
SHERMAN ALAN TURNER,	)	
	)	
Defendant.	)	
_____	)	

TRANSCRIPT OF PLEA

June 2, 2009

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BEFORE: THE HONORABLE GERALD BRUCE LEE  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT: OFFICE OF THE UNITED STATES ATTORNEY  
BY: J. CAM BARKER, ESQ.  
JOHN EISINGER, ESQ.  
2100 Jamieson Ave.  
Alexandria, Virginia 22314

FOR THE DEFENDANT: OFFICE OF THE FEDERAL PUBLIC DEFENDER  
BY: AAMRA AHMAD, ESQ.  
TODD RICHMAN, ESQ.

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OFFICIAL COURT REPORTER: RENECIA A. SMITH-WILSON, RMR, CRR  
U.S. District Court  
401 Courthouse Square  
Alexandria, VA 22314

1 (Thereupon, the following was heard in open  
2 court at 11:10 a.m.)

3 THE CLERK: 1:09 criminal 156, United States  
4 versus Sherman Alan Turner.

5 MR. BARKER: Good morning, Your Honor. Cam  
6 Barker and John Eisinger for the United States.

7 THE COURT: Good morning.

8 MS. AHMAD: Aamra Ahmad and Todd Richman on  
9 behalf of Mr. Turner who is present.

10 THE COURT: Good morning.

11 Good morning, Mr. Turner.

12 MR. TURNER: Good morning.

13 THE COURT: Mr. Turner, if you'd come to the  
14 podium with your lawyers, please, and can I have the  
15 original documents, please.

16 Good morning, Mr. Turner.

17 MR. TURNER: Good morning, sir.

18 THE COURT: I understand you want to plead  
19 guilty today; is that right?

20 MR. TURNER: Yes, sir.

21 THE COURT: What I'd like to do is I'd like  
22 to review with you all the documents that you signed to  
23 make sure you understand the documents and to make sure  
24 you understand your rights.

25 The first thing I'll need you to do is to

1 take the oath from the clerk and promise to tell the truth  
2 under penalty of law when I ask you questions.

3 THE CLERK: Please raise your right hand.

4 THEREUPON, SHERMAN ALAN TURNER, having been  
5 duly sworn, testified as follows:

6 MR. TURNER: Yes, I do.

7 THE COURT: All right, Mr. Turner, I intend  
8 to ask you questions. If at any time you have any  
9 difficulty understanding me or understanding my questions,  
10 please let me know. And if at any time you want to speak  
11 to your lawyers about my questions, please let me know,  
12 okay.

13 MR. TURNER: Okay.

14 THE COURT: What is your full name?

15 MR. TURNER: My name is Sherman Alan Turner.

16 MR. BARKER: And Mr. Turner, how old are  
17 you?

18 MR. TURNER: I'm 49 years old.

19 THE COURT: And how far did you go in  
20 school?

21 MR. TURNER: I completed the eleventh grade.  
22 I ended up getting my GED while I was in the Army.

23 THE COURT: Have you had any drugs or  
24 alcohol before coming to court today?

25 MR. TURNER: No, sir.

1 THE COURT: And are you under the care of  
2 any mental health professional for any mental health  
3 problem?

4 MR. TURNER: No, sir.

5 THE COURT: I see that you're standing there  
6 with Ms. Aamra Ahmad and Mr. Todd Richman, attorneys.

7 Do you understand you have the right to have  
8 an attorney defend you in your case?

9 MR. TURNER: Yes, sir.

10 THE COURT: And did you have sufficient time  
11 to discuss the case with your lawyers?

12 MR. TURNER: Yes, I have.

13 THE COURT: And have you told them  
14 everything that you know about the case?

15 MR. TURNER: Yes, I have.

16 THE COURT: And after discussing the case  
17 with your lawyers, did you decide for yourself that you  
18 wanted to plead guilty?

19 MR. TURNER: Yes, I did.

20 THE COURT: Did anyone threaten you or force  
21 you to plead guilty?

22 MR. TURNER: No, sir.

23 THE COURT: Did anyone make any promise to  
24 you that by pleading guilty you would get probation or  
25 some other sentence?

1 MR. TURNER: No, sir.

2 THE COURT: And are you entirely satisfied  
3 with the work your lawyers have done for you?

4 MR. TURNER: Yes, thus far.

5 THE COURT: Now, as I understand it,  
6 Mr. Turner, today you've agreed to plead guilty to the  
7 charge that's contained in the indictment, possession of  
8 firearm by a felon.

9 The indictment charges that on or about  
10 January 9, 2009 in Fairfax County, within the Eastern  
11 District of Virginia, that you, Mr. Turner, then having  
12 been convicted of a crime punishable by imprisonment for a  
13 term exceeding one year, namely a crime of robbery, did  
14 knowingly and unlawful possess in and affecting commerce a  
15 firearm, to wit, a nine-millimeter Glock handgun.

16 So, do you understand the charge against you  
17 is one of possession of a firearm by a convicted felon?

18 MR. TURNER: Yes, sir.

19 THE COURT: Now I have another document  
20 here, Mr. Turner. It's called plea agreement. I'm  
21 showing it to you now. It appears to be ten pages long.  
22 It appears to be signed on page ten by you and Mr.  
23 Richman.

24 Is that your signature on page ten?

25 MR. TURNER: Yes.

1 THE COURT: And have you had sufficient time  
2 to review the plea agreement with your lawyers?

3 MR. TURNER: Yes, I have.

4 THE COURT: Now, Mr. Turner, the plea  
5 agreement is your contract with the government about this  
6 case. It tells me what you and your lawyers have agreed  
7 to with the government attorneys about how this case is  
8 going to be handled here in court.

9 Every word in the written plea agreement's  
10 important because it affects your rights.

11 And what I intend to do now is go over  
12 certain parts of the written plea agreement with you, and  
13 there may be pages or paragraphs I may not review with you  
14 or discuss with you. And the fact I do not read a  
15 particular page or paragraph does not mean that those  
16 items are not important. The whole agreement is important  
17 and the whole agreement are what you and the government  
18 agreed to do.

19 Do you understand that?

20 MR. TURNER: Yes, sir.

21 THE COURT: Now, do you have a copy of the  
22 agreement in front of you now?

23 MR. TURNER: Yes, I do.

24 THE COURT: All right. Well let's start  
25 with page one, paragraph one, because that's what you've

1       agreed to do. It says here the defendant, and that's you,  
2       Mr. Turner, agrees to plead guilty to the one count  
3       indictment charging the defendant with possessing a  
4       firearms after having been convicted of a crime punishable  
5       by more than one year of imprisonment.

6               The maximum penalty for this offense is ten  
7       years imprisonment, a fine of \$250,000, a special  
8       assessment of \$100 and three years of supervised release  
9       except if the defendant violated 922(g) after having three  
10      prior convictions for a violent felony or serious drug  
11      offense committed on occasions different from one another,  
12      the offense carries a mandatory minimum penalty of term of  
13      imprisonment of 15 years and a mandatory fine and a  
14      maximum penalty of life, a fine of \$250,000, a special  
15      assessment of \$100, and five years of supervised release.

16             So, do you understand this is the charge  
17      you've agreed to plead guilty to?

18             MR. TURNER: Yes, sir.

19             THE COURT: And do you understand the  
20      penalty is what I just read to you?

21             MR. TURNER: Yes, I do.

22             THE COURT: Let's go over to page three,  
23      paragraph four, page three, paragraph four.

24             This refers to the role of the Court and the  
25      role of the probation office.

1                   And the fourth line down talks about any  
2                   estimate of the advisory sentencing range under the United  
3                   States Sentencing Commission Sentencing Guidelines manual.

4                   Now I'm sure that your lawyers have  
5                   explained to you that the Sentencing Guidelines are  
6                   advisory. And they set forth a range of punishment I'm to  
7                   consider along with the mandatory minimum sentence called  
8                   for by the statute.

9                   Ms. Ahmad, have you given Mr. Turner a worse  
10                  case scenario estimate of what the advisory guideline  
11                  range of punishment is in this case?

12                 MS. AHMAD: Yes, Your Honor. I told him  
13                  that if the act does not apply and he gets credit for  
14                  acceptance that his guideline range would be 27 months to  
15                  33 months.

16                 However, if the act does apply, his  
17                  guideline range would be 135 months to 168 months, but the  
18                  mandatory minimum of 15 years would apply.

19                 THE COURT: But the mandatory minimum  
20                  15 years would supersede that?

21                 MS. AHMAD: Yes, Your Honor.

22                 THE COURT: Okay, Mr. Turner.

23                 MR. TURNER: Yes, sir.

24                 THE COURT: Ms. Ahmad and Mr. Richman are  
25                  very experienced criminal defense attorneys. They've



1 handle many, many cases and what they have done is to tell  
2 you and tell me and tell the prosecutor what they think  
3 the advisory guideline range of punishment may be in this  
4 case, worst case scenario for you.

5 Do you understand that?

6 MR. TURNER: Yes, sir.

7 THE COURT: However, we do not know today  
8 what the actual guideline range of punishment may be  
9 because the probation officer who works for the judge will  
10 have to gather information from you and your lawyers and  
11 the police and the prosecutor and prepare a written  
12 presentence report.

13 That presentence report will be provided to  
14 you and your lawyers and the government attorneys. Your  
15 lawyers and the government attorneys will have a chance to  
16 comment on the report. And after I've heard from both  
17 sides then I will decide what the actual guideline range  
18 of punishment is and whether or not the mandatory minimum  
19 of 15 years or some other sentence would apply.

20 Do you understand that?

21 MR. TURNER: Yes, sir.

22 THE COURT: And if it turns out that the  
23 guideline range is higher than estimated for you by your  
24 lawyers, that is not a basis to come back to court and say  
25 I want to withdraw my guilty plea.

1 Do you understand that?

2 MR. TURNER: Yes, sir.

3 THE COURT: Let's go over to page five --  
4 page four, I'm sorry, page four, paragraph five. Page  
5 four, paragraph five.

6 Now, paragraph six talks about a conditional  
7 guilty plea. So, this means that you're going to be  
8 allowed to plead guilty, however, reserve your right to  
9 appeal the ruling that I entered on May 19th concerning  
10 your motion to suppress. That is to say, you'll be  
11 allowed to challenge the legality of the contact you had  
12 with the police under the Fourth Amendment and present  
13 argument to three judges of the Court of Appeals. And if  
14 those three judges decide to reverse my ruling, then the  
15 case will come back and you would be allowed to withdraw  
16 your guilty plea.

17 Do you understand that?

18 MR. TURNER: Yes, sir.

19 THE COURT: Now, paragraph five talks about  
20 waiver of appeal. And this is obviously subject to what  
21 happens in connection with the motion to suppress. And it  
22 also says in here that you retain the right to appeal any  
23 sentence of more than ten years if it's imposed under the  
24 Armed Career Criminal Act. So you'll be able to challenge  
25 that legal issue on appeal before those three judges of

1 the Court of Appeals as well.

2 Do you understand that?

3 MR. TURNER: Yes, sir.

4 THE COURT: Let's go over to page six,  
5 paragraph ten. Paragraph ten refers to immunity from  
6 further prosecution in this district. So the government's  
7 agreed to accept your plea of guilty to this one charge  
8 and not to bring any more charges against you.

9 Do you understand that?

10 MR. TURNER: Yes, sir.

11 THE COURT: Paragraph eleven talks about  
12 forfeiture and that is you've agreed to turn over to the  
13 government this nine-millimeter Glock pistol as well as  
14 the ten rounds of nine-millimeter ammunition found in the  
15 gun.

16 Do you understand that?

17 MR. TURNER: Yes, sir.

18 THE COURT: What I'd like to do now,  
19 Mr. Turner, is explain to you the rights you would have  
20 had you decided to go to trial on a plea of not guilty.  
21 These rights are in the plea agreement and they're on page  
22 two, paragraph three.

23 And what I'm going to do is explain these  
24 rights to you. I'm sure Ms. Ahmad and Mr. Richman have  
25 gone over these rights with you.

1                   Page two, paragraph three, they deal with  
2                   the assistance and advice of counsel. So I'm going to  
3                   invite Mr. Barker and Mr. Eisinger and Mr. Richman and  
4                   Ms. Ahmad to listen. I'm going to explain these rights to  
5                   you. I'm not going to follow them exactly as they're set  
6                   forth in the plea agreement.

7                   If you have any questions, please tell me.  
8                   And if I'm speaking too fast, please tell me, okay?

9                   MR. TURNER: Yes, sir.

10                  THE COURT: On a plea of not guilty, you're  
11                  presumed to be innocent. That means you're not required  
12                  to testify. You're not required to prove that you're  
13                  innocent. You're not required to bring witnesses to  
14                  court. And your lawyer's not required to question any  
15                  witness because on a plea of not guilty, you have the  
16                  absolute right to remain silent and require the government  
17                  attorney to bring witnesses to court and to present those  
18                  witnesses under oath before a judge or a jury and to prove  
19                  that you're guilty of the charge by what's called proof  
20                  beyond a reasonable doubt.

21                  Do you understand that?

22                  MR. TURNER: Yes, sir.

23                  THE COURT: You have the right to speedy  
24                  trial by jury with the right to have a lawyer defend you.

25                  The right to have a lawyer defend you

1 applies no matter what. Whether you plead guilty or go to  
2 trial, even if you cannot afford to pay and hire a lawyer,  
3 the Court will pay and hire a lawyer to defend you.

4 Do you understand that?

5 MR. TURNER: Yes, sir.

6 THE COURT: The right to speedy trial by  
7 jury means you have the right to have the Court bring 50  
8 or 60 United States citizens here to the courthouse who  
9 are not connected with the government, not connected with  
10 you and have you and your lawyer and the government  
11 attorney select from that 50 or 60, 12 to act as jurors in  
12 your case.

13 The jurors would sit right over to your left  
14 in those chairs. It would be their job to observe the  
15 witnesses as the witness testifies from the witness stand  
16 where the court security officer is standing right now.

17 You and your lawyer would be at the front  
18 table to the right. The government attorney would be at  
19 the front table to the left.

20 At a trial, the jury's job is to observe the  
21 witnesses as they testify, to review all the evidence and  
22 at the end of the case the jury's job is to judge to  
23 decide whether the government has shown that you're guilty  
24 of the charge by what's called proof beyond a reasonable  
25 doubt.

1 Do you understand that?

2 MR. TURNER: Yes, sir.

3 THE COURT: At a trial, the government  
4 attorney will call witnesses. The witnesses will come in  
5 the court, take the oath and take the witness stand right  
6 there as they did in the motion to suppress hearing and  
7 the government attorney would come to the podium and ask  
8 the witness questions, describing what occurred down on  
9 the Parkway in the parking lot, what you said, what was  
10 said by others, what the witnesses observed.

11 Your lawyers would have the right, one of  
12 them would come to the podium and have the right to  
13 question the government witness, to challenge the  
14 witness's truthfulness, to point out any inconsistency in  
15 the witness's testimony, to point any reason the witness  
16 might have to color his or her testimony to seek to cause  
17 your conviction.

18 And the government attorney would then have  
19 the right to ask follow-up questions. And all the  
20 government witnesses will be presented in that fashion.

21 You have the right to present witnesses.  
22 You're not required to present witnesses. However, if  
23 there are individuals in -- who have information about the  
24 facts of your case that might support your defense, you  
25 have the right to have your lawyer issue a court order

1 called a subpoena to require witnesses to come to court to  
2 testify for you.

3 Your lawyer would then call your witness in  
4 the court. The witness would take the oath and take the  
5 stand. Your lawyer would come to the podium, and of  
6 course you would be at the front table to the right and  
7 ask the witness questions bringing out facts that were  
8 helpful to your case, bringing out facts inconsistent with  
9 the government's evidence and bringing out facts that  
10 supported your defense.

11 The government attorney would have the right  
12 to question your witness, to challenge the witness's  
13 truthfulness, to point out any inconsistency in the  
14 witness's testimony, any difference between what the  
15 witness says occurred and what the government witness said  
16 occurred and any reason your witness might have to color  
17 his or her testimony to seek to avoid your conviction.

18 Your lawyer would then have the right to ask  
19 additional questions on follow up.

20 At a trial, you're not required to speak,  
21 and the judge and the jury cannot consider if you decide  
22 not to speak.

23 If, however, you decide you wanted to take  
24 the oath and take the stand, you'd have the right to do  
25 that. And after taking the oath and taking the stand,

1       then your lawyer would ask you questions, allowing you to  
2       describe in your own words what you did or did not do,  
3       what you said or did not say.

4               The government attorney would have the right  
5       to come to the podium and question you as well, to  
6       challenge your truthfulness, to point out any  
7       inconsistency between your testimony and the testimony of  
8       government witnesses and to point any reason you might  
9       have to seek to avoid conviction. And then you -- then,  
10      your lawyer would have the right to ask you additional  
11      follow-up questions.

12             At the end of the case, then the jury, those  
13      12 people who have been sitting there would have to  
14      evaluate all the evidence, all the witnesses and evidence  
15      produced by the government, any witnesses and evidence  
16      produced by you and your testimony if you decide to  
17      testify.

18             And if and only if all 12 jurors agreed that  
19      the government has shown you were guilty of the charge by  
20      what is called proof beyond a reasonable doubt could a  
21      jury return a verdict of guilty.

22             Do you understand that?

23             MR. TURNER: Yes, sir.

24             THE COURT: If the jury thought the  
25      government evidence was insufficient or the witness



1 testimony was unreliable, or if the jury had what is  
2 called a reasonable doubt, then the jury would be required  
3 to find you not guilty and that would be the end of the  
4 case.

5 Do you understand that?

6 MR. TURNER: Yes, sir.

7 THE COURT: And do you understand that by  
8 pleading guilty you're waiving or giving away your right  
9 to trial by jury?

10 MR. TURNER: Yes, sir.

11 THE COURT: You also have the right to have  
12 the case heard which the Judge, meaning me, without a  
13 jury, if you agreed to it, the government attorneys agree  
14 to it and I agreed to it, in which event then all the  
15 witnesses would testify in front of me and at the end of  
16 the case I would decide whether you were guilty or not  
17 guilty.

18 Do you understand that?

19 MR. TURNER: Yes, sir.

20 THE COURT: When you plead guilty,  
21 Mr. Turner, there are limits on what you can appeal and in  
22 this case, you have the right to appeal the ruling on the  
23 motion to suppress. You have the right to appeal any  
24 sentence of more than ten years, and you have the right to  
25 appeal the designations of Armed Career Criminal to three

1 judges of the Court of Appeals.

2 And if those three judges were persuaded to  
3 reverse the case, then that would restore you back to this  
4 court where we would all start at zero.

5 Do you understand that?

6 MR. TURNER: Yes, sir.

7 THE COURT: I have another document here,  
8 Mr. Turner, called statement of facts. This document  
9 appears to be three pages long. I'm showing it to you  
10 now. It appears to be signed on the last page by you and  
11 Mr. Richman.

12 Is that your signature on page three of the  
13 statement of facts?

14 MR. TURNER: Yes, sir.

15 THE COURT: And, have you reviewed this  
16 statement of facts with your lawyers?

17 MR. TURNER: Yes, I have.

18 THE COURT: And, do you admit this is what  
19 the facts are in your case?

20 MR. TURNER: Yes, sir, I do.

21 THE COURT: All right.

22 Ms. Ahmad, have you reviewed the statement  
23 of facts with Mr. Turner?

24 MS. AHMAD: Yes, Your Honor.

25 THE COURT: And based upon your

1 investigation of the case, is the statement of facts  
2 accurate?

3 MS. AHMAD: Yes, it is.

4 THE COURT: All right.

5 Ms. Ahmad, are there any other agreements  
6 that you have with the government that are not in writing?

7 MS. AHMAD: No, there are not.

8 THE COURT: All right.

9 Mr. Barker, is this the complete agreement  
10 you've entered into with the defendant in this case?

11 MR. BARKER: Yes, Your Honor, it is.

12 THE COURT: Are there any other agreements  
13 that are not in writing?

14 MR. BARKER: No, Your Honor, there are not.

15 THE COURT: Is the statement of facts  
16 accurate based upon the government's investigation of the  
17 case?

18 MR. BARKER: Yes, Your Honor.

19 THE COURT: Thank you.

20 All right, Mr. Turner, I've asked you a lot  
21 of questions. Have you understood my questions?

22 MR. TURNER: Yes, sir, I have.

23 THE COURT: Do you have any questions you  
24 want to ask me?

25 MR. TURNER: No, sir, I don't.

1                   THE COURT: All right. Well then to the  
2 charge we talked about earlier, of possessing of a firearm  
3 after been convicted of a crime punishable by more than  
4 one year in imprisonment, to that charge, sir, how do you  
5 plead, guilty or not guilty?

6                   MR. TURNER: I plead guilty, Your Honor.

7                   THE COURT: Let the record reflect the Court  
8 has questioned Mr. Sherman Alan Turner and reviewed with  
9 him the indictment, the plea agreement and the statement  
10 of facts.

11                   The Court finds Mr. Turner is competent to  
12 plead. He's informed of his rights and he understands his  
13 rights. He has been informed of the nature of the charges  
14 against him, and he has been informed of the consequences  
15 of his plea. He's been informed of the maximum penalty  
16 provided for by the statute and the minimum mandatory  
17 sentence called for by the statute.

18                   The Court finds the plea of guilty is freely  
19 and voluntarily made, without any threats or coercion of  
20 any kind and with the effective assistance of counsel.

21                   The Court finds that Mr. Turner's statement,  
22 the statement of facts accurately describes his  
23 participation in the offense is more than sufficient  
24 factual basis, and the Court will find the defendant  
25 guilty of the offense as charged.

1                   Let's select a date for sentencing.

2                   September 4th?

3                   MR. BARKER: The government's able.

4                   MS. AHMAD: That's fine, Your Honor.

5                   THE COURT: All right.

6                   MS. AHMAD: Your Honor, actually, Mr. Turner  
7 has indicated that he would prefer September 11th.

8                   THE COURT: Okay.

9                   MR. TURNER: After the 11th, maybe.

10                  THE COURT: All right, September 11th is  
11 fine.

12                  MS. AHMAD: I'm sorry. I misunderstood him,  
13 after the 11th.

14                  MR. TURNER: Any day after the 11th.

15                  THE COURT: What's happened on  
16 September 11th?

17                  MR. TURNER: My second year wedding  
18 anniversary.

19                  THE COURT: Is on the 11th?

20                  MR. TURNER: Yes, sir.

21                  THE COURT: Okay. We want to preserve  
22 healthy marriages so let's find another date so he could  
23 have an anniversary celebration. Let's see, hold on.  
24 September 18th.

25                  MR. BARKER: That's fine.

1 MR. TURNER: Thank you, Your Honor.

2 THE COURT: You're welcome.

3 We'll set sentencing for Friday,  
4 September 18th at 9 o'clock.

5 Between now and then, Mr. Turner, you have  
6 to meet with the United States probation officer so a  
7 presentence report can be prepared. And the government's  
8 going to provide information to the probation officer as  
9 well.

10 We will all come back to court on Friday,  
11 September 18th at 9 o'clock for sentencing.

12 Now, I have another document here,  
13 Mr. Turner. It's called consent order forfeiture and this  
14 deals with the gun and the ammunition, and you signed it.

15 Is that your signature on this order for  
16 consent order forfeiture?

17 MR. TURNER: Yes, sir.

18 THE COURT: All right. Then I'll going to  
19 enter this order right now forfeiting the gun.

20 All right. We're in recess. Thank you.

21 (Proceeding concluded at 11:51 a.m.)  
22  
23  
24  
25

1  
2 CERTIFICATE OF REPORTER  
3

4 I, Renecia Wilson, an official court reporter  
5 for the United State District Court of Virginia,  
6 Alexandria Division, do hereby certify that I reported by  
7 machine shorthand, in my official capacity, the  
8 proceedings had upon the plea in the case of United States  
9 of America vs. Sherman Alan Turner.

10 I further certify that I was authorized and  
11 did report by stenotype the proceedings and evidence in  
12 said plea, and that the foregoing pages, numbered 1 to 22,  
13 inclusive, constitute the official transcript of said  
14 proceedings as taken from my shorthand notes.

15 IN WITNESS WHEREOF, I have hereto subscribed  
16 my name this 18th day of February, 2010  
17

18 \_\_\_\_\_  
19 Renecia Wilson, RMR, CRR  
20 Official Court Reporter  
21  
22  
23  
24  
25